



UNITED STATES DEPARTMENT OF COMMERCE  
International Trade Administration  
Washington, D.C. 20230

17 OCT 2003

A-570-502

Scope Review  
PUBLIC DOCUMENT  
DAS III (7): AC-E

By Certified Mail, Return Receipt Requested

To All Interested Parties:

On December 6, 2002, the Department of Commerce (the Department) received a request in proper form from Westview Sales Ltd. (Westview) for a scope ruling on whether the manhole frames and solid cover that it imports are covered by the antidumping duty order on iron constructed castings from the People's Republic of China (PRC).

In accordance with 19 CFR § 351.225(k)(1), and pursuant to the antidumping duty order in effect for this merchandise (*Antidumping Duty Order: Iron Construction Castings from the People's Republic of China*, 51 FR 17222 (May 9, 1986)), the Department has determined that the manhole frames and solid cover imported by Westview are within the scope of this antidumping duty order.

Enclosed is a memorandum containing the Department's analysis. We will notify the U.S. Customs and Border Protection of this decision. If you have any questions, please contact Addilyn Chams-Eddine at (202) 482-0648.

Sincerely,

Barbara E. Tillman  
Director  
Office of AD/CVD Enforcement VII  
Import Administration

Enclosure





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MEMORANDUM FOR: Joseph A. Spetrini  
Deputy Assistant Secretary  
for Import Administration, Group III

FROM: Barbara E. Tillman *BT*  
Director  
Office of AD/CVD Enforcement VII

SUBJECT: Final Scope Ruling: Antidumping Duty Order on Iron Construction  
Casting from the People's Republic of China (A-570-502);  
Westview Sales, Ltd.

### Summary

On December 6, 2002, the Department of Commerce (the Department) received a request from Westview Sales Ltd. (Westview) for a scope ruling on iron construction castings. In its request, Westview contends that the manhole frames and cover that it imports are outside the scope of investigation as their 'design specifications and intended use are for commercial and industrial applications and are not "municipal castings" designed for use in public utility, water, and sanitary systems.' Westview argues that the manhole frames and cover it imports from China are not covered by the antidumping duty order on iron construction castings from the PRC. See Westview's request citing Antidumping Duty Order: Iron Construction Casting from the People's Republic of China, 51 FR 17222 (May 9, 1986). In accordance with 19 CFR § 351.225(k)(1), we recommend that the Department determine that these manhole frames and cover are within the scope of the antidumping duty order on iron construction castings from the PRC.<sup>1</sup>

### Background

The regulations governing the Department's antidumping scope determinations are found at 19 CFR § 351.225. On matters concerning the scope of an antidumping duty order, the Department first examines the descriptions of the merchandise contained in the petition, the

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<sup>1</sup>Unless otherwise indicated, all citations are to the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (the Act). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR § 351 (2002).



determinations of the Secretary and the International Trade Commission (the Commission), the initial investigation, and the antidumping duty order. See 19 CFR § 351.225(d) (referencing section 351.225(k)(1)). This determination may take place with or without a formal inquiry. If the Department determines that these descriptions are dispositive of the matter, the Department will issue a final scope ruling on whether the merchandise is covered by the order. See 19 CFR § 351.225(d).

Conversely, where the descriptions of the merchandise are *not* dispositive, the Department will consider the five additional factors set forth at 19 CFR § 351.225(k)(2). These criteria are: i) the physical characteristics of the merchandise; (ii) the expectations of the ultimate purchasers; (iii) the ultimate use of the product; (iv) the channels of trade in which the product is sold; and (v) the manner in which the product is advertised and displayed. The determination of which analytical framework is most appropriate in any given scope inquiry is made on a case-by-case basis after consideration of all evidence before the Department.

In the instant case, the Department has evaluated Westview's request in accordance with 19 CFR § 351.225(k)(1), and the Department finds that the descriptions of the product contained in the petition, the final determinations of the Secretary (including prior scope determinations) and of the Commission, the initial investigation, and the antidumping duty order are, in fact, dispositive. Therefore, the Department finds it unnecessary to consider the additional factors set forth at 19 CFR § 351.225(k)(2).

Documents and parts thereof from the underlying investigation deemed relevant by the Department to this scope ruling were made part of the record of this determination and are referenced herein. Documents that were not presented to the Department, or placed by it on the record, do not constitute part of the administrative record for this scope determination.

In its May 13, 1985 petition, the Municipal Castings Fair Trade Council and its individual members (the Council) requested that the investigation cover:

[c]ertain iron construction castings, limited to manhole covers, rings and frames, catch basin grates and frames, cleanout covers and frames used for drainage or access purpose for public utility, water and sanitary systems, and valve, service and meter boxes which are placed below ground to encase water, gas, or other valves, or water or gas meters. These articles must be of cast iron, not alloyed, and not malleable, and are currently classifiable under item number 657.09 of the Tariff Schedules of the United States.

Petition Seeking Relief Under Section 731 of the Tariff Act of 1930, as Amended, Vol. I at 6, dated May 13, 1985 ("Petition")

On March 19, 1986, the Department of Commerce published a notice of final determination of sales at less than fair value of Certain Iron Construction Castings From the People's Republic of China, 51 FR 9483 (March 19, 1986). The products covered by this final determination are:

[c]ertain iron construction castings, limited to manhole covers, rings and frames, catch basins, grates and frames, cleanout covers and frames used for drainage or access purposes for public utility, water and sanitary systems, and valve, service and meter boxes which are placed below ground to encase water, gas or other valves, or water or gas meters. These articles must be of cast iron, not alloyed, and not malleable, and are currently classified under items numbers 657.0950 and 657.0990 of the *Tariff Schedules of the United States, Annotated* (TSUSA).

On April 25, 1986, in accordance with sections 736 and 751 of the Act, the Commission notified the Department that importations of heavy castings materially injure a United States industry and that importation of light castings threaten material injury to a United States industry.

Iron construction castings are divided into two categories: "heavy" castings, which usually have walls of one (1) inch or greater thickness, and "light" casting, which typically have 1/4-inch -thick walls.

Heavy construction castings consist of manhole covers, rings and frames; catch basin grates and frames; and cleanout covers and frames used for drainage or access purposes. Such castings generally range in weight from 270 to 1,000 pounds and are produced by the sand-cast method. Heavy castings are classified under the Harmonized Tariff Schedule (HTS) item number 7325.10.0010.

Light castings consist of valve, service, and meter boxes. These products are placed below ground to encase the valves and meters of water, gas, or other utilities, and to provide access to this equipment for periodic adjustment and reading. Light castings generally range in weight from 10 to 120 pounds and are produced in the United States by the sand-cast, shell mold, or permanent mold process. Light castings are classified under HTS item number 7325.10.0050.

On May 9, 1986, the Department published an antidumping duty order covering Iron Construction Castings From the People's Republic of China, 51 FR 17222. The products covered by this order are:

[c]ertain iron construction castings, limited to manhole covers, rings and frames, catch basins, grates and frames, cleanout covers and frames used for drainage or access purposes for public utility, water and sanitary systems, classifiable as heavy castings under item number 657.0950 of the *Tariff Schedules of the United States, Annotated* (TSUSA), and to valve, service and meter boxes which are placed below ground to encase water, gas, or other valves, or water or gas meters, classifiable as light castings

under item number 657.0990 of the TSUSA. These articles must be of cast iron, not alloyed, and not malleable.

On June 7, 1999, the Department, pursuant to sections 751(c) and 752 of the Act, determined that revocation of the antidumping order on certain iron construction castings from Brazil, Canada and the PRC would likely to lead to continuation or recurrence of dumping. See Final Results of Expedited Sunset Reviews: Certain Iron Construction Castings From Brazil, Canada and The People's Republic of China, 64 FR 30310 (June 7, 1999). On October 29, 1999, the Commission, pursuant to section 751(c) of the Act, determined that revocation of the antidumping duty orders on certain iron construction castings from Brazil, Canada, and the PRC would likely lead to the continuance or recurrence of material injury to an industry in the United States within a foreseeable time. See Iron Metal Castings From India; Heavy Iron Construction Castings From Brazil; and Iron Construction Castings From Brazil, Canada, and China, 64 FR 58442 (October 29, 1999). Therefore, pursuant to 19 CFR § 351.218(e)(4), the Department published a notice of the continuation of the antidumping duty order on certain iron construction castings from Brazil, Canada, and the PRC See Notice of the Continuation of Antidumping Orders: Certain iron construction castings form Brazil, Canada, and the People's Republic of China, 64 FR 61590 (November 12, 1999).

### **Product-Specific Scope Determinations**

Westview noted the following product-specific scope determinations:

Brazil - On April 28, 1995, the Department determined, in response to a request from Southland Marketing, Inc., that the Polycast 700 Series frame, part number DGO700, and grate, part number DGO641, are not within the scope of the antidumping duty order on iron construction castings from Brazil. See Notice of Scope Rulings and Anticircumvention Inquiries, 60 FR 36782 (July 18, 1995).

The Department determined that the DGO700 does not fall within the weight classification for heavy castings. Further, the Department determined that the range of light castings does not include drains of any kind, as such, the DGO641 is not within the scope of the order.

China - In response to a request from Jack's International Trading Association, Ltd., on August 28, 1995, the Department determined that Jack's Floor Area Drains are not construction castings used for drainage or access purposes. Therefore the floor area drains are outside the scope of the order. See Notice of Scope Rulings and Anticircumvention Inquiries, 60 FR 54213 (October 20, 1995). Moreover, in response to a request from The Metraflex Company, on August 13, 1997, the Department determined that "Y" pipe strainers are outside the scope of the order See Notice of Scope Rulings and Anticircumvention Inquiries, 62 FR 62288 (November 21, 1997).

The Department determined that Jack's Floor Area Drains, including removable grids are not construction castings used for drainage purposes. Moreover, the total weight of the subject merchandise was approximately six pounds. Hence, the Department determined that the subject merchandise does not fall within the scope definition for heavy or light castings. Further, in reference to the request from The Metroflex Company, the Department determined that the "Y" pipe strainer exceeds 120 lbs, as such, it is not considered within the weight and description of light castings and does not meet the definition of heavy casting. See Memorandum to Joseph A. Spetrini from Edward Yang regarding: Scope ruling on the Antidumping Duty Order on Iron Construction Castings from the People's Republic of China: Request by the Metroflex Company dated August 18, 1997.

### **Westview's Scope Request**

Westview argues that the manhole frames and solid cover it imports are outside the scope of the order because they are used for telephone fiber optic applications and thus their design specifications and intended uses are for commercial and industrial applications. According to Westview, its manhole frames and cover are not "municipal castings" designed for use in public utility, water, and sanitary systems.

### **Analysis**

With respect to the instant request, we find that for the reasons outlined below, the manhole frames and cover imported by Westview fall within the scope of the order on iron construction castings from the PRC.

When determining whether or not a particular product is within the scope of an antidumping duty order, the Department must consider, above all else, the physical description and physical characteristics of the merchandise. The iron constructions castings referenced in Westview's request for a scope ruling are two separate manhole frames and a solid cover. The documentation submitted by Westview establishes that the imports are of similar product designs as the manhole frames and cover produced by two domestic iron construction castings producers: Neenah Foundry Company and Inland Foundry Company. The Council provided corroborating information to establish that the manhole frames and cover imported by Westview have a similar product design to the manhole frames and cover manufactured and sold by the domestic industry.

The Westview 2010 10" Frame has a 48" base diameter, while the diameter of the Neenah R-175-C and the Inland 716-5A are 49" and 48<sup>7</sup>/<sub>8</sub>", respectively. Each of the frames has a 41" diameter to inside of flare. The variance between the products' inside lip diameter is 1/4" as both Westview's product and Inland's product have a 29 3/4" diameter and Neenah's product has a 30" lip diameter. The height allowance from base to cover is 1 3/8". The overall height of each frame is 10" and each frame has four 1" holes for standard bolts. The outside lip diameter of the three specific frames varies 3/4" as Westview's frame is 31 3/4", while Neenah's is 32" and Inland's is 32 1/8".

The Westview 2010 6" Frame has a 49" base diameter as does the Neenah R-175-C1 while the Inland 716-4A has a 47½" base diameter. Both Westview and Neenah have a 37" diameter to inside flare. Inland has a 40" diameter to inside of flare. The variance between the products' inside lip diameter is 1⅛" as both Neenah and Inland products have a 30" diameter and Westview's product has a 31⅞" inside to lip diameter. The overall height differs ½" as Westview's frame is 5½", Neenah's frame is 5 ⅝" and Inland's frame is 6" in height. The outside lip diameter of the three specific covers varies ¾" as Westview's frame is 31¾", Neenah's is 32" and Inland's is 32⅛". Each frame has four 1" holes for standard bolts. Westview's frame has a larger outside lip diameter at 34<sup>5</sup>/<sub>16</sub>" while the frames produced domestically have a 32" outside lip diameter.

The specifications provided by Westview of the manhole cover demonstrate that at 31<sup>11</sup>/<sub>16</sub>" the Westview 2010 top of cover diameter is ⅛" larger than the Inland cover. The height of both covers is 1⅜". Westview's request did not provide the specifications for the Neenah cover. However, Neenah's on-line website and catalog confirm that the Neenah R-1750-C and C1 manhole covers have similar specifications to Westview's and Inland's cover: the top of cover diameter is 32" and the cover lip height is 1⅜". See attachment 1.

Westview contends that its imported manhole frames and cover are specifically designed for telephone fiber optic applications, which are used in commercial and industrial environments. However, as previously indicated, the manhole frames and cover imported by Westview are nearly identical to the manhole frames and cover produced and sold by Neenah and Inland. The Council stated that the product specifications for the Neenah and Inland products indicate uses which include telecommunications and electricity. The specified manhole frames and cover "are sold routinely on all types of projects including telecommunications, electrical, sanitary, and storm - all for the purpose of providing access to below-ground utilities." Substantiating the Council's comments are the Commission's description and uses of iron construction castings, which states that the castings "are used for drainage and access purposes in utility, water and sanitary systems." See Iron Construction Castings from the Brazil, India, and the People's Republic of China, USITC Publication 1838 (April 1986) (TTC Final).

Westview asserts that its imported manhole frames and covers are used solely for telephone fiber optic applications. Further, Westview claims that telephone fiber optics usage does not constitute "municipal" usage, rather it should be considered as "commercial and industrial" usage. Westview concludes that since the manhole frames and cover it imports are used solely for commercial and industrial applications and not for municipal purposes, the products do not fall within the scope of the order.

Westview provides no evidence to substantiate this claim. Furthermore, according to Black's Law Dictionary, a public utility is defined as:

A company that provides necessary services to the public, such as **telephone**, electricity, and water. Most utilities operate as monopolies but are subject to government regulations. Black's Law Dictionary, (7<sup>th</sup> ed. 1999) (emphasis added).

The Department disagrees with Westview's arguments. First, the physical descriptions of the products show that the manhole frames and cover meet the physical description of the merchandise covered by the scope of the antidumping duty order. The physical characteristics are the basis of our determination: the use of the product is not relevant to our analysis. Moreover, even if the Department were to consider uses in its analysis, Westview's frames and cover are included in the scope of this order because telephone applications are among the different services classified as public utilities.

In fact, the manhole frames and cover imported by Westview have significant commercial and public utility applications. Furthermore, the product specifications provided by Westview specifically indicate that the products have applications for electrical as well as telecommunications purposes. Finally, Westview states that as a distributor it does not know the end user or the ultimate use of the imported casting. See Westview Sales Ltd. Scope Ruling Request: Iron Construction Castings from the People's Republic of China (A-570-502), dated December 6, 2002. Westview's lack of access to this information is irrelevant to our analysis as the manhole frames and solid cover imported by Westview are within the scope, by its description, which is dispositive. Therefore, we find the iron construction casting imported by Westview to be covered by the scope of the antidumping order on iron constructions castings from the People's Republic of China.

To support its contention that the Department should exclude the subject castings from the order, Westview references prior scope rulings. Upon examining these rulings, the Department has determined that the cited rulings are inapplicable and therefore do not support Westview's contention.

Pursuant to this analysis, the Department examined the scope ruling that determined that "Y" pipe strainers imported by Metraflex Company were outside the scope of the order. See Memorandum to Joseph A. Spetrini from Edward Yang, dated August 18, 1997, citing Scope Ruling on the Antidumping Duty Order on Iron Construction Castings from the People's Republic of China: Request by the Metraflex Company. The imported "Y" pipe strainer by its description did not meet the established criteria for light or heavy iron construction castings as defined by the scope of the antidumping order, and therefore the Department ruled it was not included within the scope of the order.

The Department also examined the scope ruling regarding Jack's International Trading Associates, Ltd. This prior scope ruling is also inapplicable to Westview's request. The Department determined that Jack's floor area drains, including removable grids, were not classifiable as construction castings for drainage or access purposes based on the physical description. Jack's product had a total weight of approximately six pounds, which is not within





**Signature Brands, Inc (Halloween) Sample Images**  
**Candles have been Determined to be Within the Scope of the Order**

